

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)
Act 523 of 1980

32.1067 Military appeals tribunal; establishment; location; appointment, reappointment, and terms of members; eligibility; appointment and duties of chairperson; quorum; concurrence necessary for decision; removal of member; legal, technical, and secretarial assistance; compensation and expenses; appellate jurisdiction; petition for review; action by tribunal; granting stay or deferring service of sentence; setting aside findings and sentence; ordering rehearing or dismissing charges; returning record to state judge advocate general; further action.

Sec. 67. (1) A military appeals tribunal is established and located for administrative purposes only in the department of military affairs. The tribunal shall consist of 5 members appointed by the governor, by and with the advice and consent of the senate, for a term of 4 years. Initial appointments to the military appeals tribunal shall be 1 member for a 2-year term, 2 members for a 3-year term, and 2 members for a 4-year term. The term of office of all successor members shall be for a 4-year period. A member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the unexpired term of the predecessor. A member may be reappointed and a vacancy shall be filled for an unexpired term in the same manner as an appointment is made for a full term. A person is eligible for appointment to the military appeals tribunal if the person is a commissioned officer or a civilian and licensed to practice law in this state.

(2) The governor shall appoint the chairperson of the tribunal. The chairperson shall have general supervisory control of and be in charge of the assignment of the work of the tribunal.

(3) A majority of the tribunal shall constitute a quorum. The military appeals tribunal shall sit as a panel of 3 members. The concurrence of 2 members shall be necessary for a decision of the tribunal.

(4) A member of the military appeals tribunal may be removed by the governor, upon notice and hearing, for neglect of duty, or malfeasance in office, or for mental or physical disability.

(5) Subject to appropriations by the legislature, the military appeals tribunal shall have the legal, technical, and secretarial assistance as the chairperson considers necessary.

(6) The members of the military appeals tribunal while actually sitting in review of a matter submitted to their jurisdiction by this code, and while traveling to and from the session, shall be paid daily compensation equal to 1/250 of the state salary paid to circuit court judges together with the actual cost of their meals, lodging, and actual travel expenses or the amount set by the existing appropriation if private transportation is utilized.

(7) The military appeals tribunal shall have appellate jurisdiction, upon the petition of an accused, to hear and review the record in all decisions of a court-martial after the review provided in this article has been completed.

(8) The accused has not more than 60 calendar days, from the time of the receipt of actual notice of the final action on the accused's case, under this code to petition the military appeals tribunal for review. The tribunal shall act upon the petition not more than 60 calendar days after the receipt of the petition. The military appeals tribunal may grant a stay or defer service of the sentence of confinement or any other punishment under this code until the tribunal's final decision in the case.

(9) In a case reviewable under subsection (6), the military appeals tribunal shall act only with respect to the findings and sentence as finally approved and ordered executed by the convening authority.

(10) If the military appeals tribunal sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the tribunal sets aside the findings and sentence and does not order a rehearing, the tribunal shall order that the charges be dismissed. After the military appeals tribunal acts on the case, the record shall be returned to the state judge advocate general, who shall notify the convening authority of the tribunal's decision. If further action is required, the state judge advocate general shall instruct the convening authority to take action pursuant to that decision. If the tribunal has ordered a rehearing, but the convening authority finds a rehearing impracticable, the state judge advocate general shall dismiss the charges.

History: 1980, Act 523, Eff. Mar. 31, 1981.